IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3644 OF 2006

Mohan Kumar Rayana .. Petitioner

Vs.

Komal Mohan Kumar Rayana .. Respondent

Mr. Janak Dwarkadas with Ms. Madhavi Diwan and Ms. Mrinalini Deshmukh i/by M/s. D.H. Law Associates for petitioner.

Mr. N.B. Shah for respondent.

CORAM: B.H. MARLAPALLE, J.

Date : June 08, 2006.

P.C.:

1. Heard. Leave to amend is allowed. Amendment be carried out forthwith.

2. This petition challenging the order passed by the learned Principal Judge of the Family Court at Mumbai below Exh.13 on 15/5/2006 has become infructuous in as much as the access granted during the vacation was for the period from 15/5/2006 to 6/6/2006.

3. Mr. Dwarkadas then pointed out that the petitioner-husband's Interim Application No..12 of 2006 has been rejected by the following one line order:-

"The application is rejected, (for reasons see order below Exh.13)"

4. A perusal of the Interim Application No.12 of 2006 submitted by the petitioner-husband before the Family Court prays for modification of the earlier order of access passed on 20/12/2005. The reasons for the modification of the said order are mainly two i.e. (a) the reluctance of the minor daughter Anisha to join the company of her mother and (b) the evaluation made by the psychiatrist and psychologist regarding the child's mental state.

5. Even if it is accepted that the Interim Application No.12 of 2006 has been rejected for the reasons set out in the order passed below Exh.13, a

perusal of the said order indicates that the first issue raised by the husband i.e. the minor daughter's reluctance to join her mother's company during the time of her access and has noted her satisfaction that the child expressed her desire to stay with the respondent-mother even after returning from vacation from Hydrabad. The learned Judge also had the advantage of talking to the child when produced before her and it has been noted that the child was very happy and she was willing to go to her mother's house during vacation. The issue raised in the Interim Application No.12 of 2006 for modification of the order passed on 20/12/2005 has not been considered on the second ground and the order below Exh.13 does not deal with the same. When an expert's report is purportedly placed before the Family Court, it is necessary that the same ground is dealt with by a reasoned order, though such an order may not be a lengthy one.

6. This petition is, therefore, disposed off as infructuous so far as it relates to the challenge to the order passed below Exh.13 and it is directed that

the Interim Application No.12 of 2006 shall be restored to the file and shall be heard and decided on its own merits afresh by the learned Judge of the Family Court as expeditiously as possible and preferably before the end of July, 2006.

7. Petition disposed off accordingly.

(B.H. Marlapalle,J.)